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| APPLICATION NO.  | FILING DATE        | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|--------------------|----------------------|---------------------|------------------|
| 10/693,780   | 10/24/2003         | Douglas R. Swarts    | PFI-P001            | 1984             |
| 40418<br>HEIMLICH LAW<br>5952 DIAL WAY<br>SAN JOSE, CA 95129 | 7590<br>10/30/2008 |                      |                     |                  |
| EXAMINER   |                    |                      |                     |                  |
| LEE, CLOUD K   |                    |                      |                     |                  |
| ART UNIT   |                    | PAPER NUMBER         |                     |                  |
| 3753   |                    |                      |                     |                  |
| NOTIFICATION DATE  |                    | DELIVERY MODE        |                     |                  |
| 10/30/2008   |                    | ELECTRONIC           |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

alanheimlich@heimlichlaw.com  
sroberts@peloquinlaw.com

### Office Action Summary

**Application No.**

10/693,780

**Applicant(s)**

SWARTS, DOUGLAS R.

**Examiner**

CLOUD K. LEE

**Art Unit**

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-73 is/are pending in the application.
- 4a) Of the above claim(s) 39, 53 and 59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38, 40-52, 54-58 and 60-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. The Notice of non-compliant or non-responsive mailed on 6/26/08 has been withdrawn. This Office Action is response to Amendment filed on 7/26/07.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 32-34, 37-38, 40-47, 56-58, 60-73 are rejected under 35 U.S.C. 102(e) as being anticipated by Schoellhorn et al. (US Pub No. 2002/0189673).

Schoellhorn et al. discloses a sewage system comprising an axially expandable and collapsible conduit (42) fixedly attached at one end and extendible at the other end (see figure 1), wherein expansion of the conduit is performed by an increased gas pressure (by air pressure tank 46) applied to or inside of the conduit and where contraction of the conduit is performed by a decreased gas pressure applied to or inside of the conduit. The conduit allows fluids to transfer from the tanks (10 and 12) to the outside of the vehicle, wherein the fluids are black water and gray water. When the conduit is in a retracted state, the conduit is stored in a position to allow extension from one end to a substantially opposite end and when the conduit is in an extended state, the conduit is extended beyond a vehicle edge without a shroud. Schoellhorn et al. further discloses a nozzle assembly (the last few inches in the end of the conduit 42) attached to the

extendible conduit. Schoellhorn et al. also discloses means for controlling waste flow (valves 26 and 28), a gray tank (12) and a black tank (10) and an outlet (pipes 22 and 24) and the extendible conduit is attached to the outlet (pipe 30 which is connected to pipes 22 and 24), wherein a valve (26 and 28) is located between the outlet and the first end of the extendible conduit (see figure 1). Schoellhorn et al. inherently discloses its associated method for transferring waste and comprising operating a control to extend a hose, placing the hose in a drain, operate a first control to open the door (60) operate a second control to actuate the valve (26 and 28) to allow waste to flow through the hose into the drain, removing the hose from the drain, then operate a fourth control to retract the hose and operate a fifth control to close the door.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-31, 35-36, 51-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoellhorn et al. (US Pub No. 2002/0189673) in view of Buxton (US Patent No. 5,135,258).

Schoellhorn et al. discloses a nozzle. However, Schoellhorn et al. fails to disclose a nozzle includes a valve for controlling waste to transfer from the extendible conduit through the nozzle assembly.

Buxton discloses a nozzle (40) includes a valve (45) for controlling fluid to transfer from the fluid source to the nozzle. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided a handle in Schoellhorn et al. invention in order to control fluid from the fluid source to the nozzle as taught by Buxton.

Regarding claim 51, the limitation “the waste controlling valve is located on a passenger side of a vehicle and the second end of the hose is routed to the driver's side of the vehicle”, Schoellhorn et al fails to disclose the location of the valve and the hose in respect to the vehicle. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to place the valve with respect to the vehicle because applicant has not disclosed that the location of the valve (front side, rear side, left side and right side of the vehicle) provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with the valve and the hose located on either side (passenger side and driver's side) of the vehicle. Therefore, it would have been an obvious matter of design choice to modify Schoellhorn et al. to obtain the invention.

6. Claims 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoellhorn et al. (US Pub No. 2002/0189673)

Regarding claims 48-50, the limitation “the waste controlling valve is located on a passenger side of a vehicle and the second end of the hose is routed to the driver's side of the vehicle”, Schoellhorn et al fails to disclose the location of the valve and the hose with respect to the vehicle. At the time the invention was made, it would have been an obvious matter of design

choice to a person of ordinary skill in the art to place the valve with respect to the vehicle because applicant has not disclosed that the location of the valve (front side, rear side, left side and right side of the vehicle) provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with the valve and the hose located on either side (passenger side and driver's side) of the vehicle. Therefore, it would have been an obvious matter of design choice to modify Schoellhorn et al. to obtain the invention.

***Response to Arguments***

7. Applicant's arguments filed 7/26/07 have been fully considered but they are not persuasive.

In response to applicant's argument that Schoellhorn does not disclose a nozzle, the Examiner disagrees. Schoellhorn discloses an extendible hose (42) having a nozzle (the Examiner considers the end of the hose is a nozzle after the cap 52 is removed).

In response to applicant's argument that Schoellhorn fails to disclose a conduit fixedly attached or permanently attached at one end, the Examiner disagrees for the following reason: Schoellhorn et al. discloses an extendible conduit (42) that is fixedly attached to drain pipe (30) since the extendible conduit cannot be removed from the drain pipe (30), the extendible conduit is fixedly attached or permanently attached at one end of the drain pipe (30).

In response to applicant's argument that Schoellhorn fails to disclose a first end of the extendible conduit is attached to the outlet, the Examiner disagrees for the following reasons: Schoellhorn discloses a black tank (10) and a gray tank (12) with outlets (22 and 24, the outlets

are connected to drain pipe (30)), and the first end of the extendible conduit is attached to the drain pipe (30), therefore, the first end of the extendible conduit is attached to the outlet (see Figure 1 of Schoellhorn).

Applicant's arguments with respect to claims 6, 22, 25, 35 and 51 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLOUD K. LEE whose telephone number is (571)272-7206. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571)272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Rivell/  
Primary Examiner, Art Unit 3753

/Cloud K Lee/  
Examiner, Art Unit 3753